

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2710 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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BACHUBHAI BHALLABHAI SUNGADA

Versus

UNION OF INDIA

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Appearance:

MR BHUSHAN OZA for MR VD PARGHI for Petitioner  
MS SANGITA PAHWA for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 22/10/1999

#### ORAL JUDGEMENT

1. More than necessary pleadings of the parties are there on the record of this special civil application. I am constrained to observe that a simple matter is sought to be made complicated by multiple pleadings in this case. Be that as it may.

2. At one point of time on formation of the Accounts Cadre the Corporation has decided to bring in service persons in this new cadre. In 1977, the petitioner who

was in other cadre made an application for his transfer to the newly formed Accounts cadre but his application was not accepted on the ground that he had not sufficient experience. The petitioner has not challenged that decision of the Corporation at the appropriate time and still in this special civil application the challenge has not been made to the said decision of the Corporation.

3. In 1984, the petitioner applied for his transfer to the Accounts cadre but this time he could not be taken as the persons were taken on the basis of seniority. He challenged that action of the Corporation in this special civil application and by amendment of the pleadings he cited the case of one Mr. Khan who as per his case was junior to him still he was preferred and transferred to the Accounts cadre. However, from the pleadings of the Corporation I am satisfied that this citation by the petitioner is wholly misplaced. Mr. Khan, as per the seniority list which has been produced for the perusal of this court by Ms. Sangita Pahwa, counsel for the Corporation, is senior to the petitioner.

4. Shri Oza then contended that the Corporation changed the criteria from time to time for taking in service candidates to the Accounts cadre. However, I do not find any substance in this contention and the reason is very obvious. In case the seniority is taken to be a criterion for change of cadre, it is a reasonable and fair criterion to which no exception can be made. Mr. Khan in the year 1977 has applied for the change of his cadre but as it was a conditional application i.e. he wanted retention of his seniority in another cadre it was not accepted. In 1984 again he applied with the condition and his application was not accepted but in later point of time, he has given up the condition. It is different matter that for decision on such a small and petty matter the Corporation has taken about seven years but ultimately on the basis of his 1984 application he was transferred to the Accounts Cadre. Learned counsel for the petitioner has failed to cite any case where a person junior to the petitioner has been permitted to change his cadre, i.e. he was taken in accounts cadre by transfer. None of the legal or fundamental rights of the petitioner are being infringed in this case.

5. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. However, no order as to costs.

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zgs/-